

Chapter 751: RULES GOVERNING ARBORIST LICENSING, TESTING, AND ENFORCEMENT
IN THE STATE OF MAINE

SUMMARY: This chapter outlines the definitions, examination and licensing requirements, enforcement procedures, and professional expectations for arborists in the state of Maine.

SECTION 1. DEFINITIONS

- A. Landscape Arborist - An individual licensed as an arborist, who is primarily concerned with the planting and care of shade or ornamental trees.
- B. Utility Arborist - An individual licensed as an arborist who performs arboricultural procedures primarily in the proximity of electrical transmission, distribution and/or other utility lines.
- C. Apprentice - An unlicensed individual working under the supervision of a licensed Arborist.
- D. Department - Means the Maine Department of Agriculture, Food and Rural Resources.
- E. Supervision - is the on-site direction by a licensed First Class or Master Arborist.
- F. Restricted License - A license issued to an Arborist who has not met the requirements of both a Master Landscape and Master Utility Arborist.
- G. Regular License - A license issued to an Arborist who has completed all the requirements for both the Master Landscape and Master Utility Arborist categories.
- H. Person - Any individual, partnership, association, fiduciary, corporation, governmental entity or any organized group of persons whether incorporated or not.

SECTION 2. LICENSING CATEGORIES

- A. Restricted
 - 1. Apprentice Landscape or Utility Arborist - Individuals having no prior experience or training as a landscape or utility arborist are required to train under the direction of a First Class Arborist, Master Landscape Arborist or Master Utility Arborist until they successfully complete the First Class Landscape and/or First Class Utility Arborist exam and become licensed as a First Class Landscape and/or First Class Utility Arborist according to the rules established by the Department. An Apprentice is further restricted to the following limitations:
 - a. any work performed by an Apprentice must be under the on site supervision of a First Class or Master Arborist

- b. the Apprentice must not solicit work
 - c. the Apprentice must not diagnose problems or prescribe treatment
 - d. the Apprentice must not in any other way act in the capacity of a First Class or Master Arborist.
 - 2. First Class Landscape or First Class Utility Arborist - An individual who has successfully completed the First Class Landscape or First Class Utility Arborist examination and has met all the other licensing requirements contained in these rules.
 - 3. Master Landscape Arborist - An individual who has a minimum of five years of experience as a First Class Landscape Arborist, has successfully completed the Master Landscape Arborist examination and holds a valid Maine Pesticide Applicator License in category 3A - Outdoor Ornamentals and has met all the other licensing requirements contained in these rules.
 - 4. Master Utility Arborist - An individual who has a minimum of five years of experience as a First Class Utility Arborist, has successfully completed the Master Utility Arborist examination and holds a valid Maine Pesticide Applicator License in category 6A - Utility Vegetation Management and has met all the other licensing requirements contained in these rules.
- B. Regular
- 1. Master Landscape and Master Utility Arborist - An individual who has a minimum of five years of experience as both a Landscape and Utility Arborist, has successfully completed both the Master Landscape Arborist and Master Utility Arborist examinations and holds a valid Maine Pesticide Applicators License in categories 3A - Outdoor Ornamentals and 6A - Utility Vegetation Management and has met all the other licensing requirements contained in these rules.

SECTION 3. REQUIREMENTS FOR ARBORIST TESTING AND LICENSING

- A. An individual who wishes to practice arboriculture in Maine must obtain a license in the appropriate categories established by the Department.
- B. The applicant must be at least 18 years of age.
- C. The applicant need not be a resident of this state.
- D. Applicants for any permit/license or examination must obtain an application from the Arborist Licensing Program, Maine Department of Agriculture, 28 State House Station, Augusta, Maine 04333. This completed application, accompanied by the appropriate non-refundable fee must be submitted to the same address for processing.
- C. The Department recommends that all individuals with little or no prior experience or training begin as an apprentice working under the on-site supervision of a First Class or

Master Arborist. An applicant with no prior experience or training should apply to the Department for either an Apprentice Landscape or Apprentice Utility Arborist permit.

- F. The Department will not prevent any person from taking the First Class Arborist exams without having been an apprentice and if they successfully complete the exam those persons may become licensed as First Class Arborists and establish an arboricultural business.
- G. An applicant may apply to the Department to take the First Class Landscape and/or First Class Utility Arborist examination. The examination for this restricted license category will test an individual's competence in the field or arboriculture.
- H. An applicant for the Master Landscape and/or Master Utility Arborist examination must be able to document a minimum of five years experience and/or training before applying to the Department for either of these licenses.

SECTION 4. PROCEDURE FOR OBTAINING A PERMIT OR LICENSE

- A. An Apprentice permit will be issued by the Department following approval of the applicant's completed application and signed affidavit. The affidavit must be signed by the First Class or Master Arborist indicating that the Apprentice will work only under the supervision of a licensed First Class or Master Arborist, who will provide proper training to the applicant.
- B. Applicants for either First Class or Master category license must take an examination approved by the Department. Exams shall be given on dates scheduled by the Department.
- C. Within 60 days after written notification from the Department that an applicant successfully passed an exam, the applicant must submit the initial license fee, a signed insurance affidavit and certificate of insurance. [In addition, for a Master Landscape and/or Utility Arborist, a copy of the applicant's current Maine Pesticide Applicator license in the appropriate category(s), must be submitted.] The insurance affidavit must state that liability insurance, at least in the amounts herein prescribed, will be in effect when performing arboricultural activities in Maine. Failure to submit the required fees and documents noted above within the 60-day period will result in the applicant having to repeat the process and pay all fees again.

SECTION 5. LIABILITY INSURANCE REQUIREMENTS

Before performing arboricultural activities in Maine, a licensed arborist must:

- A. Obtain commercial general liability insurance coverage meeting the following minimum requirements:

Each occurrence	\$150,000
General aggregate	\$300,000

SECTION 6. FEES

- A. Applicants for any Maine arborist permit, examination or license may be assessed the following fees by the Department:

1. Permits

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| a. | Initial application only | \$15.00 |
| b. | Renewal | \$30.00 |

2. Exams

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| a. | Application Fee | \$10.00 |
| b. | First Class Landscape or Utility | \$50.00 |
| c. | First Class Landscape and Utility | \$75.00 |
| d. | Master Landscape or Utility | \$75.00 |
| e. | Master Landscape and Utility | \$100.00 |

3. Licenses

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| a. | First Class Landscape or Utility | \$30.00 |
| b. | First Class Landscape and Utility | \$45.00 |
| c. | Master Landscape or Utility | \$30.00 |
| d. | Master Landscape and Utility, or
Regular Master | \$45.00 |
| e. | Add authority to license | \$15.00 |

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| 4. | Late Fees | \$10.00 |
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- B. A copy of the Study Guide is available for a fee upon request from the Department.

SECTION 7. EXAMINATION

Examinations are based on a written Study Guide available from the Department.

- A. First Class and Master Level examinations will include both a written and a practical section.
- B. Written exam questions shall be objective - True/False, multiple choice, etc. The practical examination section will consist of demonstrated skills and knowledge in the various aspects of arboriculture.

- C. Oral examinations at the First Class level will be provided to individuals with recognized disabilities upon request and approval of the Department. Oral exams shall cover the same information as the written exams and will be scheduled by the Department.
- D. Specific examination components and the passing grade required for each category of licensing shall be as follows:
 - 1. Apprentice Landscape or Apprentice Utility Arborist - no examination required
 - 2. First Class Landscape or First Class Utility Arborist
 - a. Exam will consist of:
 - i. a written open book section covering:
 - A. information found in the Study Guide available from the Department.
 - B. information concerning the "American National Standards for Tree Care Operations", ANSI Z133.1 and ANSI A300, produced by the American National Standards Institute (ANSI).
 - ii. a practical demonstration of the applicant's knowledge of tree pest and/or tree identification, the safe use of arborist tools and equipment, and approved arboricultural techniques.
 - b. The passing grade will be 70% or better.
 - 3. Master Landscape or Master Utility Arborist
 - a. Exam will consist of:
 - i. a written closed book section covering:
 - A. all information in the Study Guide available from the Department.
 - B. all information concerning the "American National Standard for Tree Care Operations", ANSI Z133.1 and ANSI A300, produced by the American National Standards Institute (ANSI).
 - ii. a practical demonstration of the applicant's knowledge of tree identification, insect and disease identification, and problem solving.
 - b. The passing grade will be 75% or better.

SECTION 8. ARBORIST CODE OF ETHICS

A. An Arborist:

1. must promote the highest ethical standards of personal conduct in the field of arboriculture.
2. must recommend to and inform the general public of proper and adequate shade tree care and must discourage the promotion of techniques, methods and materials that have not been adequately tested and approved.
3. should strive for increasing knowledge of arboriculture by attending arborist meetings, workshops, and seminars and by subscribing to trade journals and publications.
4. must meet all the requirements for a licensed arborist including the carrying of liability insurance to protect themselves and the public when performing arboricultural activities.
5. should, upon request of the Maine Arborist Advisory Council, aid the Council in updating the arborist exams, and any amendments to the Arborist Licensing Law that will further ensure equitable and ethical standards in the field of arboriculture.
6. must strive to share knowledge in the field of arboriculture with fellow arborists and to promote safe practices.
7. must be truthful in all verbal and written statement concerning arboricultural services offered.

SECTION 9. PROCESSING COMPLAINTS

- A. The Department may, on its own motion or upon the complaint of any person, investigate the conduct and activities of any person holding an arborist license. Any person filing a complaint with the Department against an arborist must submit, in writing, a detailed description of the conduct or activities which are the subject of the complaint, as well as copies of any written contracts, photographs and other documentary evidence relating to the complaint.
- B. Complaints will be processed following guidelines formulated by the Department. Such guidelines are available from the Department upon request.
- C. The person against whom an investigation is initiated shall be notified by the Department of the investigation as soon as possible, but no later than 60 days after the complaint is received.
- D. The person against whom an investigation is initiated shall have 30 days from receipt of notification of the investigation to respond to the Department in writing.

- E. If, after investigation, the Department determines that a factual basis exists concerning a violation of any statute, standard or regulation relating to arborist licensing, the Department may take any of the following actions it deems appropriate:
1. Enter into a consent agreement with the person; or
 2. Accept voluntary surrender of the person's arborist license; or
 3. Hold an adjudicatory hearing in conformance with the Maine Administrative Procedure Act (5 MRSA, Chapter 375, Subchapter IV), including the right to present and cross examine witnesses, for the purpose of determining whether or not to renew the person's arborist license.
 4. Refer the matter to the Attorney General's Office for an enforcement action.

SECTION 10. DEFINITION OF UNPROFESSIONAL CONDUCT OF A LICENSED MAINE ARBORIST

- A. Performing acts beyond the scope of the category for which the individual is licensed;
 - B. Assigning unqualified persons to perform arboricultural functions contrary to the law regulating the practice of arborists (7 MRSA, Chapter 404, subchapter 2) and this chapter;
 - C. Failing to supervise persons to whom arboricultural functions have been delegated;
 - D. Aiding, abetting or assisting an individual or company to violate or circumvent any law or regulation intended to guide the conduct of a licensed arborist;
 - E. Practicing arboriculture when physical or mental ability is impaired by alcohol or drugs;
 - F. Allowing another person to use one's arborist license for any purpose;
 - G. Impersonating another licensed arborist or falsely representing a company or firm;
 - H. Impersonating any applicant, or acting as proxy for the applicant, in any arborist examination; and
 - I. Any breach of the Arborist Code of Ethics contained in section 8 of this chapter.
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STATUTORY AUTHORITY: 7 MRSA chapter 404 §§ 2173-2191

EFFECTIVE DATE:

June 29 1991 (under 02-287, Arborist Examining Board)

AMENDED:

May 3, 1994

EFFECTIVE DATE (ELECTRONIC CONVERSION):

November 2, 1996

RULE-MAKING AUTHORITY TRANSFERRED:

September 18, 1999 - to 01-001, Department of Agriculture, Food and Rural Resources

REPEALED AND REPLACED:

February 11, 2006 –filing 2006-69, absorbed Ch. 751 through 754 under new title, “Rules Governing Arborist Licensing, Testing, and Enforcement in the State of Maine”